

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
AMBER E. MILLINER,

Plaintiff,

16-cv-5744 (PKC) (KNF)

-against-

ORDER ADOPTING REPORT
AND RECOMMENDATION

NANCY A. BERRYHILL, ACTING
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

-----X
CASTEL, Senior District Judge:

On July 19, 2016, Amber Milliner, proceeding *pro se*, filed this action seeking review of the final decision of the Commissioner of Social Security denying Milliner supplemental security income. (Dkt. 2). The Commissioner moved for judgment on the pleadings pursuant to Fed. R. Civ. P. (12)(c). (Dkt. 11). Milliner has not submitted any opposition to that motion.

This Court referred the motion to Magistrate Judge Kevin Nathaniel Fox to hear and report. (Dkt. 13). On July 21, 2017, Magistrate Judge Fox issued a Report and Recommendation (the “R&R”) recommending that the motion for judgment on the pleadings be granted. (Dkt. 14). In reviewing an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The R&R advised the parties that they had 14 days from the service of the R&R to file any objections with the undersigned, citing Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1), and warned that failure to file such objections would result in a waiver of any right to object. (R&R at 14). More than three weeks have passed since the R&R was filed, and no

objections or requests for extensions have been submitted to the Court. Milliner received clear notice of the consequences of the failure to object and has waived the right to object to the R&R or obtain further judicial review of the magistrate's decision. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992); Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002); see also Caidor v. Onondaga Cnty., 517 F.3d 601, 604 (2d Cir. 2008).

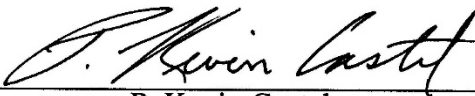
Where clear notice of the consequences of a failure to object has been provided, the Court may adopt an unobjected-to report and recommendation without *de novo* review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."). In such circumstances, "a district court need only satisfy itself that there is no clear error on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). Guided by Magistrate Judge Fox's thorough and well-reasoned R&R, I find no clear error. Therefore, I adopt the Report and Recommendation in its entirety.

CONCLUSION

The Commissioner's motion for judgment on the pleadings (Dkt. 11) is
GRANTED.

This Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and in forma pauperis status is denied. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
August 23, 2017